

**STATE OF NEW MEXICO
BEFORE THE ENVIRONMENTAL IMPROVEMENT BOARD**

**IN THE MATTER OF PROPOSED AMENDMENTS
TO 20.5.1, 20.5.7, 20.5.10, 20.5.12 through 20.5.16 and 20.5.18,
PETROLEUM STORAGE TANK REGULATIONS**

No. EIB 08-18 (R)



PETITION FOR REGULATORY CHANGE

Pursuant to the Hazardous Waste Act, Section 74-4-1 et seq. NMSA 1978, the Ground Water Protection Act, Section 74-6B-1 et seq. NMSA 1978, the Environmental Improvement Act, Section 74-1-1 et seq. NMSA 1978, and the rules of the Environmental Improvement Board (the Board), 20.1.1 NMAC, the Petroleum Storage Tank Bureau (the Bureau) of the New Mexico Environment Department (the Department) respectfully requests a hearing before the Board on its proposed amendments to the New Mexico Petroleum Storage Tank rules, 20.5 NMAC. In particular, the Bureau proposes to amend the following: Part 1, General Provisions; Part 7, Reporting and Investigation of Suspected and Confirmed Releases; Part 10, Administrative Review; Part 12, Corrective Action for Storage Tank Systems Containing Petroleum Products; Part 13, Corrective Action for UST Systems Containing Other Regulated Substances; Part 14, Certification of Tank Installers; Part 15, Corrective Action Fund Use and Expenditures; Part 16, Qualification of Persons Performing Corrective Action; and Part 18, Operator Training.

Requirements imposed by the federal Energy Policy Act of 2005 (EPAAct) prompted the Bureau to begin revising its storage tank rules. Earlier this year, the Environmental Improvement Board adopted rules implementing some of EPAAct's requirements (in particular, rules concerning release prevention and secondary containment, among other things). To meet EPAAct's upcoming deadlines, the Bureau now respectfully asks the Board for a hearing in April to adopt the attached amendments and new rules. In addition to complying with EPAAct's requirements, particularly its operator training and certification requirements, the proposed rules also address other issues, including issues arising from the need to effectively manage and maintain the solvency of the Corrective Action Fund to the need to return properties to productive use to clarifying existing departmental procedures.

The rules with proposed amendments, as well as a Statement of Reasons for the proposed amendments, are attached to this Petition.

We respectfully request that the Board consider this Petition at its meeting on December 1, 2008, and set the proposed rules for hearing in April 2009, or as soon thereafter as is practical. Scheduling a hearing in April 2009 will allow for completion of the 2009 legislative session and for the 60-day notice to the public required by Section 74-1-9 NMSA 1978 and 20.1.1.301 NMAC.

The Bureau estimates that the hearing will take one full day, including approximately five hours of testimony in support of the proposed revisions from the Bureau, plus one hour of testimony from various stakeholders and members of the public. The Bureau does not anticipate significant controversy concerning the proposed amendments or substantial critical testimony.

Respectfully submitted,

NEW MEXICO ENVIRONMENT DEPARTMENT

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